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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,960	01/19/2001	Mitsukazu Momosaki	ALPHA 3.0-001	9159

7590

01/14/2004

WEINGRAM & ASSOCIATES, P.C.  
P.O. BOX 927  
197 W. Spring Valley Avenue  
Maywood, NJ 07607

EXAMINER

PRONE, JASON D

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 01/14/2004

24

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/765,960

Applicant(s)

MOMOSAKI, MITSUKAZU

Examiner

Jason Prone

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6-12, 14, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Carmody.

Carmody discloses the same invention including a cutter body (Fig. 1) including upper (A) and lower handles (B) having a pivot (e), that the lower handle has an upper blade end extending beyond the pivot (C) and having an arcuate first blade edge secured thereto (c<sup>3</sup>), that the upper handle has a lower blade end extending beyond the pivot and opposing the upper blade end (D), that the lower blade end has an arcuate second blade edge secured thereto (d<sup>3</sup>), that the handles and blade ends are pivotable about the pivot to provide opposing movement between an open an closed position (Figs 2 and 2<sup>a</sup>), that the first and second blade edges are disposed in mutually opposing positions (Fig. 2<sup>a</sup>) and the space between the first and second blade edges varies along the length when the cutting edges are in the closed position for cutting (Fig. 2<sup>a</sup>), that the variation in the space between the first and second blade edges provide greatest pressure at the contact edges of the first and second blade edges (Fig. 2<sup>a</sup>), a sheet of brittle material disposed between the first and second blade edges as the first and second blade edges are brought to a close (n), that the first and second blade edges

each have outer and inner portions (Fig. 2) and the distance between the opposing outer portions is less than the distance between the opposing inner portions (Fig. 2<sup>a</sup>), that the outer portions of the opposing blade ends are curved (C and D) for cutting curves into the sheets of brittle material (Fig. 6), a return spring connected between the upper and lower handles (Fig. 1), a stop means connected between the upper and lower handles for maintaining the handles in a open position (Fig. 1), that the opposing blades edges are disposed to be perpendicular to the surface of brittle material (Fig. 2<sup>a</sup>), that one of the blade edges has an angled inner surface providing a sharp edge (d<sup>3</sup>), that the first and second blade edges each contain a portion parallel to the axis of the pivot (Fig. 2<sup>a</sup>), and that the arcuate curved first and second blade edges are convex (Fig. 5)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carmody in view of Berg. Carmody discloses the invention but fails to disclose a guide secured to the lower blade end. Berg teaches of a guide (18) secured to the lower blade end (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Carmody with a guide, as taught by Berg, to allow for a more precise cut.

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5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carmody in view of Price. Carmody discloses the invention but fails to disclose that the curved first and second blade edges are concave. Price teaches curved first and second blade edges that are concave (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Carmody with concave blade edges, as taught by Price, to cut an outer curve.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 6-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Herrmann.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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A handwritten signature, possibly reading 'JP', in black ink.

JP

January 8, 2004

A handwritten signature, possibly reading 'AS', in black ink.

Allan M. Shoap  
Supervisory Patent Examiner  
Group 3700